

## **REMARKS**

### ***Status of the Claims***

Applicant acknowledges being notified that the Examiner assigned to this application is now Examiner IVAN A. GREENE.

Claims 1-16 are pending in the instant application. Claims 9-16 have been withdrawn. Claims 1-8 are currently being examined on the merits.

### ***Claim Objections***

The Examiner has maintained the objection to instantly recited claim 1 as being confusing. Applicant does not agree and in fact believes that the clauses may be delineated using formatting which is considered sound practice in view of the order limitation being sometimes read into claims prepared with lettered or numbered clauses. **However, in order to move prosecution forward the clauses have been delineated using Roman Numerals and letters as required by the Examiner.**

### **Claim Rejections - 35 U.S.C. § 112**

Claims 1-8 remain stand as rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is the Examiner's position that the instant specification does not define "strongly acidic functional group" or present clear guidance as to the metes and bounds of what exactly a "strongly acidic functional" group should be. Claims - 8 stand rejected as depending from and doing nothing to correct the shortcoming of the parent claim.

It is the Examiner's position that that the terms "strongly acidic" and "strong acid" are not considered synonymous because "strongly acidic" is used as functional language to describe a synthetic organic polymer substituent. A "strong acid," as applicant has pointed out, is an acid for which essentially all the acid

molecules dissociate in solution. The Examiner notes that a person having ordinary skill in the basic chemical arts would consider the most common "strong acids" as inorganic acids such as sulfuric acid, hydrochloric acid, or nitric acid, inter alia and that it is unclear whether applicant intends to include such acids in the scope of the claimed "strongly acidic" functional group.

**The Applicants respectfully traverse the Examiner's rejection under §112 by stating that one of ordinary skill in the art would well know the meaning of a strong acid group at least in regard to the claimed "at least one of the one or more anionic acrylic monomers contains a strongly acidic functional group."** A mineral acid as cited by the Examiner would not be included as a functional group within the claimed monomers. This is a matter of record in the patent literature. Exemplary of this matter are:

Strongly acidic functional groups useful for functionalizing the vinylaromatic polymer beads to make the surface-functionalized catalyst beads of the present invention include sulfonic and phosphonic acid groups and their respective salts, and preferably the sulfonic acid groups and their salts. U.S. Pat. No. 5426199

-and-

an ion exchange resin having strongly acidic functional groups selected from the group consisting of sulfonic acid, phenylsulfonic acid and phosphonic acid, boron trifluoride, a heteropolyacid such as phosphotungstic acid, silicotungstic acid, phosphomolybdic acid, or silicomolybdic acid, an aromatic sulfonic acid such as benzenesulfonic acid, toluenesulfonic acid, or a solid acid such as alumina, silica alumina, crystalline aluminosilicate, titania or a mixture thereof, etc. U.S. Pat. No. 4508918

One of ordinary skill in the art would be well versed in what would and would not constitute a strongly acid functional group within the context of the claimed anionic acrylic monomer.

### **Claim Rejections - 35 U.S.C. § 103**

Claims 1-8 stand as rejected under 35 U.S.C. §103(a) as being unpatentable over YEUNG (US 5,721,313) and NEFF (US 4,861,499) in view of CHAUDHRY (6,051,245).

It is the Examiner's position that the difference between the rejected claims and the teachings of YEUNG/NEFF is that YEUNG/NEFF do not expressly teach an inverse emulsion comprising the polymer species. The Examiner cites CHAUDHRY as teaching an inverse emulsion comprising the polymer species. The Examiner concludes that it would have been *prima facie* obvious to one of ordinary skill in the art at the time the claimed invention was made to combine YEUNG and NEFF because both YEUNG and NEFF teach similar polymer compositions. The Examiner further concludes that it would have been *prima facie* obvious to one of ordinary skill in the art at the time the claimed invention was made to combine CHAUDHRY with YEUNG/NEFF because both YEUNG and NEFF teach similar polymer compositions and YEUNG teaches cosmetic applications for their polymer species; and CHAUDHRY teaches a cosmetic composition comprising a polymer thickener substantially similar to those taught by YEUNG and NEFF.

The Examiner dismisses the Applicant's arguments regarding Yeung because the subject claims includes comprising language which invites additional ingredients and the polymer is recited as "an anionic acrylic polymer," which the Examiner states is not being read as expressly excluding nonionic species so long as the polymer is an anionic polymer.

**The Applicants respectfully traverse the Examiner's arguments in view of the Amendments to Claim 1 and new Claims 17 and 18.** Claim 1, the sole remaining independent claim still in examination, has been amended to use a "consisting essentially of" transition and to further limit the claims to those polymers including a crosslinker. Claims 17 and 18 are to range of crosslinker and a specific crosslinking agent, respectively. This is not new matter and is supported in the specification at Paragraph 0027 of the published application.

As already argued, the polymers claimed in the newly amended Claim 1 lack an essential monomer of YEUNG. CHAUDHRY lacks the hydrophobic acrylic monomer of the present claims. NEFF is even further away from the present

claims requiring a plurality of compounds excluded from Claim 1 and is further employed in applications such as drilling mud and fracturing fluids. The Applicants respectfully assert that the claims as amended are not obvious in view of the Examiner's art and are instead in condition for allowance in view of same.

## **CONCLUSION**

For all the foregoing reasons, the Applicants submit that the application is in a condition for allowance. If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned at 281-404-4850 to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,

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